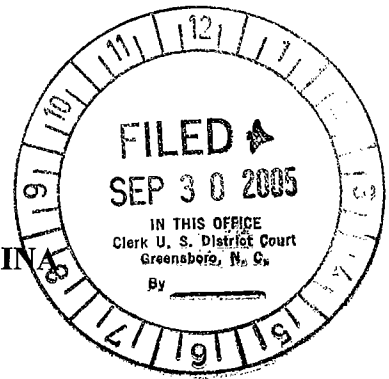


UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



U.S. COMMODITY FUTURES TRADING)
COMMISSION,)

Plaintiff,)

vs.)

JOHN POOLE a/k/a JAMES DREW,)
INDIVIDUALLY AND d/b/a MAC)
SYSTEMS,)

Defendant.)

Case No.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL MONETARY PENALTIES AND
OTHER ANCILLARY RELIEF PURSUANT
TO THE COMMODITY EXCHANGE ACT
AS AMENDED, 7 U.S.C. §§ 1 *et seq.*

1:05CV00859

I.

SUMMARY

1. Starting in or about April 2003, defendant John Poole a/k/a James Drew ("Poole"), individually and d/b/a Mac Systems, created the website www.optionstoriches.com ("website") to solicit potential clients to purchase a trading system that purportedly taught users how to trade options on commodity futures contracts ("commodity options") profitably. In advertising the trading system on the website, however, defendant fraudulently represented that the trading system would yield huge profits and that it would allow clients to predict accurately market movements in any commodities market. The website also posted fictitious client testimonials attesting to the success the purported clients had achieved using the trading system.

2. By virtue of this conduct, defendant committed fraud in violation of Section 4o(1)(A) and (B) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 6o(1)(A) and (B) (2002), and Commodity Futures Trading Commission ("Commission") Regulations ("Regulations") 4.41(a)(1) and (2), 17 C.F.R. § 4.41(a)(1) and (2) (2004).

Accordingly, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, the Commission brings this action to enjoin defendant's unlawful acts and practices and to compel defendant's compliance with the Act and the Regulations. In addition, the Commission seeks civil monetary penalties and remedial ancillary relief including, but not limited to, restitution, disgorgement, pre-judgment and post-judgment interest, and such other relief as this Court may deem necessary or appropriate.

3. Unless restrained and enjoined by this Court, defendant may continue to engage in the acts and practices alleged in this Complaint or in similar acts and practices, as more fully described below.

II.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a), which provides that whenever it shall appear to the Commission that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order promulgated thereunder, the Commission may bring an action in the proper district court of the United States against such person to enjoin such practice or to enforce compliance with the Act, or any rule, regulation or order thereunder.

5. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), because defendant is found or is an inhabitant in this District.

III.

THE PARTIES

A. Plaintiff

6. The Commission is the independent federal regulatory agency charged with the administration and enforcement of the Act and the Commission Regulations. The Commission's main office is located at 1155 21st Street, NW, Washington, D.C. 20581.

B. Defendant

7. Upon information and belief, **John Poole a/k/a James Drew** is an individual with last known addresses of 6710 Kennette Drive, Pfafftown, North Carolina 27040. Poole has never been registered with the Commission in any capacity under either the name John Poole or James Drew.

8. Upon information and belief, from approximately 1993 to 2004, Poole conducted business as **Mac Systems**, with a former mailing address of 23404 Lyons Avenue, Suite 433, Newhall, California 91321 and a physical address of 25361 Via Pacifica, Valencia, California 91355 (Poole's former residence). Mac Systems has never been registered with the Commission in any capacity.

IV.

FACTS

A. Background

9. Beginning in or about April 2003, Poole, using the alias James Drew, created the website www.optionstoriches.com to solicit potential clients to purchase a trading system that purportedly taught users how to trade commodity options profitably.

10. The trading system taught methods that allegedly predicted accurate price movements regardless of the commodity. The trading system consisted of self-paced manuals and CD-ROMs. Purchasers also were granted access to a members-only website section that contained, among other things, current and customizable charts and prices, recommendations, and "What's Hot and What's Not" lists.

11. In promoting the trading system on the website, defendant fraudulently represented, without basis, that the trading system would yield huge profits and that it would allow clients or prospective clients to predict accurately market movements.

12. The website also posted fictitious client testimonials attesting to the success that purported clients had achieved using the trading system.

B. Website Misrepresentations

Profits

13. The website contained numerous representations that clients could reap huge profits or become rich by trading commodity options and following the trading system offered on the website. For example, the website promised that:

- "The next few pages will show you how you can protect your future and **make a ton of cash** using a proven strategy that provides unlimited profit potential with very limited risk"
- "This is one of the last opportunities for the average person to become **incredibly rich** and experience a life you may have thought to be out of reach"
- "You have taken the first step to becoming **VERY WEALTHY** using a proven and **GUARANTEED** system that has been used by the Super Rich for decades to not just get rich but also increase their wealth substantially"

14. Further, the website provided that it was easy to make these huge profits:

- "Easy to learn system can ensure huge profits"

- "Trading Options is a Guaranteed opportunity that ANYONE can use to make huge profits"
15. In fact, defendant knows of no client who ever made a profit using the trading system presented in defendant's website.

Market Movement Predictions

16. The website also stated that the trading system, as well as the information provided in the members-only section of the website, would allow a client to know which way option prices would move in the future. For example the website stated that:

- "There is no way to have 100% accuracy in any investment system but this secret and easy to use system of deciphering the market has provided users with 86% accuracy and is used by some of the greatest traders of all time"
- "This information allows anyone to take advantage of this easy to learn and extremely accurate technique"
- "Let me show you how easy it can be to accurately predict prices"

17. In fact, defendant knows of no client who ever accurately predicted the movement of any commodity market using the trading system presented in defendant's website, and defendant has no basis for representing that the system has provided users with 86% accuracy in predicting market moves.

False Testimonials

18. In addition, the website contained a number of testimonials from people who supposedly had used the trading system offered by the defendant. For example:

- "'My first trade (\$175) resulted in almost a \$2,300 profit in less than 3 weeks.' – John Corsino[,], Santa Monica, Ca."
- "'My account went from \$3,000 to \$58,200 in less than four months.' Chuck Bauss[,], Lansing, Mi."
- "'I was able to turn \$400 into \$4,500 in just 5 weeks but I then used part of these profits to net \$32,000. Within 2 ½ months I

made a profit of close to \$35k using nothing but the information and strategies provided in your program . . . ' William Boyd – Andover, MN."

19. These client testimonials are false. Defendant simply made up the testimonials and placed them on the website.

20. Defendant made all of the misrepresentations and omissions, including the creation of the false testimonials, with the intent to defraud clients and prospective clients, or with reckless disregard for the truth.

V.

VIOLATIONS OF COMMODITY EXCHANGE ACT

COUNT I—FRAUD BY A COMMODITY TRADING ADVISOR VIOLATION OF SECTION 4o(1)(A) AND (B) OF THE ACT, 7 U.S.C. § 6o(1)(A) AND (B) AND COMMISSION REGULATION 4.41(a)(1) AND (2), 17 C.F.R. § 4.41(a)(1) AND (2)

21. Paragraphs 1 through 20 are realleged and incorporated herein by reference.

22. Section 1a(6) of the Act, 7 U.S.C. § 1a(6), defines a Commodity Trading Advisor ("CTA") as any person who, inter alia, for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market.

23. Section 4o(1), 7 U.S.C. § 6o(1), prohibits both registered and unregistered CTAs, by use of the mails or any means or instrumentality of interstate commerce, from directly or indirectly, 1) making material misrepresentations and omissions to clients or prospective clients regarding futures and options transactions, Section 4o(1)(A), 7 U.S.C. § 6o(1)(A); or 2) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client, Section 4o(1)(B), 7 U.S.C. § 6o(1)(B).

24. Commission Regulation 4.41(a)(1), 17 C.F.R. § 4.41(a)(1), prohibits a CTA, whether registered or unregistered, from advertising in a fraudulent or misleading manner. Similarly, Regulation 4.41(a)(2), 17 C.F.R. § 4.41(a)(2), prohibits advertising by a commodity trading advisor that operates as a fraud or deceit on clients or prospective clients.

25. Defendant was a CTA and acted as such in operating the website. Defendant was the owner of the website, whose apparent sole business was selling commodity options trading systems for compensation. Ostensibly, the trading systems taught clients how to analyze market trends effectively and how to trade commodity options profitably. In addition, the members-only section of the website provided up-to-date information, recommendations and "What's Hot and What's Not" lists. Finally, defendant offered the trading system through the Internet, a means of interstate commerce. Thus, defendant is firmly within the statutory definition of a CTA. Defendant therefore acted as a CTA, whether or not defendant was registered, or required to be registered, as such.

26. During the relevant time period, defendant violated Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1) (A) and (B), in that defendant directly or indirectly employed a device, scheme or artifice to defraud clients or prospective clients, and engaged in transactions, practices or a course of business which operated as a fraud or deceit upon clients or prospective clients. Defendant committed fraud by, among other things, misrepresenting that the trading system would yield huge profits and that the trading system would allow clients or prospective clients to predict accurately market movements. In addition, defendant defrauded clients or prospective clients by providing fictitious client testimonials attesting to the success that purported clients had achieved using the trading system. Furthermore, during the relevant time period, defendant violated Section 4.41(a)(1) and (2) of the Regulations, 17 C.F.R. §4.41(a)(1) and (2), by

advertising on the Internet in a manner that employed a device, scheme, or artifice to defraud clients or prospective clients and by advertising in a manner that involved transactions, practices or courses of business which operated as a fraud or deceit upon clients or prospective clients while acting as a CTA.

27. Each false, deceptive, or misleading representation of material facts and each failure to disclose material facts, including, but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B), and Section 4.41(a)(1) and (2) of the Regulations, 17 C.F.R. §4.41(a)(1) and (2).

VI.

RELIEF REQUESTED

WHEREFORE, plaintiff Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1, and pursuant to the Court's own equitable powers, enter:

A. An order of permanent injunction restraining and enjoining defendant, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of defendant, and all persons insofar as they are acting in active concert or participation with defendant, who receive actual notice of the order, by personal service or otherwise, from directly or indirectly, employing any device, scheme, or artifice to defraud clients or prospective clients, or engaging in any transactions, practices or courses of business which operate as a fraud or deceit upon clients or prospective clients in violation of Section 4o(1)(A) and (B) of the Act, 7 U.S.C. § 6o(1)(A) and (B), and Regulation 4.41(a)(1) and (2), 17 C.F.R. § 4.41(a)(1) and (2);

B. An order directing defendant to make full restitution for harm caused by defendant's violations of the provisions of the Act and the Regulations as described herein, including pre-judgment and post-judgment interest;

C. An order directing defendant to disgorge to any officer appointed and directed by the Court, or directly to their investors, all benefits received including, but not limited to, salaries, commissions, loans, fees, revenues and trading profits derived, directly or indirectly, from acts or practices which constitute violations of the Act and the Regulations as described herein, including pre-judgment and post-judgment interest;

D. An order directing defendant to pay civil monetary penalties under Section 6c of the Act, 7 U.S.C. § 9a, in amounts not more than the higher of \$120,000 or triple the monetary gain to defendant for each violation of the Act;

E. An order directing that defendant be permanently prohibited from trading on any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29), whether for any account in which he has a direct or indirect interest or for others; and

F. An order for such other and further relief as the Court may deem necessary or appropriate under the circumstances, including the appointment of a temporary or permanent receiver.

Respectfully submitted by,

Charles D. Marvine

Richard Glaser

Commodity Futures Trading Commission,

Division of Enforcement

1155 21st Street, N.W.

Washington, D.C. 20581

202-418-5358

202-418-5519 (fax)

Charles D. Marvine

Commodity Futures Trading Commission,

Division of Enforcement

Two Emanuel Cleaver II Boulevard, Suite 300

Kansas City, Mo 64112

816-960-7743

816-960-7750 (fax)